

Remarks.

The claim amendments in the December 19, 2006 Amendment and Response under 37 C.F.R. § 1.116 After Final Rejection were denied entry. Entry of the amendments and consideration of the claims is requested. Applicants also herein re-assert each argument and remark submitted in the Amendment and Response. The examiner indicated, in the January 18, 2007 Advisory Action, that the claim amendments and arguments would overcome the rejections for alleged non-compliance with 35 U.S.C. 112 (¶2) and the written description requirement and, however, that the rejections for new matter and enablement would not be overcome. Applicants request a full, substantive examination of the new matter and enablement issues in view of the amended claims along with a complete explanation thereof.

Request for Continued Examination. Applicants submit that the present RCE is appropriate and that it should be granted. An RCE is appropriate when prosecution of an application has been closed, for example, following a final office action which does not result in allowance. 37 C.F.R. § 1.114(b). According to the M.P.E.P. 706.07(h)(II), an RCE is appropriate whether or not the amendments following the final office action are entered and submission of arguments, after the final office action, found not to be persuasive is also permitted. Accordingly, the present RCE is proper.

A Notice of Appeal was also filed along with the December 19, 2006 Amendment and Response. Applicants herein

withdraw their appeal and seek to re-open prosecution of the present application.

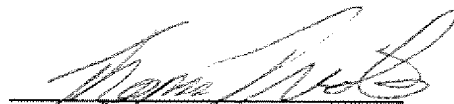
Notice of Non-compliant Amendment. The January 18, 2007 Advisory Action also included a Notice of Non-compliant Amendment. A brief telephone discussion with Examiner Steadman, on January 23, 2007, indicated that the Amendment submitted after the final office action failed to properly identify the status of claim 14. The status identifier "Allowed" is improper. Applicants point out that the present amendment properly identifies the status of claim 14 as "Original" and that the present amendment is compliant with 37 C.F.R. § 1.121. Denial of entry of the present amendment for non-compliance with the rule would not be proper.

Conclusion.

Early and favorable action is earnestly solicited.

Respectfully submitted,

Date: Jan. 24, 2007


Thomas Triolo, Ph.D.
Registration No. 48,001
Agent for Applicant(s)

Schering-Plough Corporation
Patent Department; K-6-1, 1990
2000 Galloping Hill Road
Kenilworth, NJ 07033
908-298-2347